IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

WRIT PETITION NO. 3388 OF 2005.

Shree Shahu Chhatrapati Polytechnic,
Kolhapur. .. Petitioner.

V/s.

Assistant Provident Fund
Commissioner, and Recovery Officer,
Kolhapur. .. Respondent.

Shri M.S.Topkar for the petitioner.

Mrs. S.V. Bharucha for the respondent.

CORAM : V.C.DAGA, J.

DATED : 17.4.2006.

P.C. :

. Heard. Rule returnable forthwith.

Ms. Bharucha waives service on behalf of the respondent.

2. Heard finally by consent of parties.

Perused petition.

3. Factual matrix reveals that the petitioner has suffered exparte order dated 30.11.2004. When this exparte order was sought to be executed by the respondent, they acquired knowledge about this order dated 30.11.2004.

4. The petitioner thereafter, has moved an application for setting aside exparte order. The said application was received on 2.2.2005 by the

respondent. Since then this application for review is pending. No steps were taken by respondent NO.1 to hear and decide the same. On the contrary, exparte order dated 30.11.2004 is sought to be executed against the petitioner.

5. Learned Counsel for the Petitioner submits that the respondent be directed to hear and dispose of application with expeditious despatch.

6. The above submission made by the learned Counsel for the petitioner was strongly opposed by Mrs. Bharucha, learned Counsel for the respondent.

7. After having heard learned Counsel for rival parties, it is not in dispute that the petitioner has suffered exparte order dated 30.11.2004. That the petitioner has moved an application for setting aside exparte order and prayed for restoration of the proceedings. That the said application is pending for consideration with the respondent since 2.2.2005. That the said application needs to be heard on its own merits.

8. In this view of the matter, respondent cannot avoid to decide the application moved on 2.2.2005. He is thus, directed to decide the application moved by the petitioner for setting aside exparte order dated 30.11.2004 as

expeditiously as possible at any rate within three months from the date of receipt of copy of this order. So long as the application is not decided, it will not be open for the respondent to execute the order dated 30.11.2004 or to take any coercive steps for execution thereof.

7. In the result, petition is allowed. Rule is made absolute in terms of this order with no order as to costs.

(V.C.DAGA,J.)